

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

STACY BUTLER and
CAROL SOJDA,

Plaintiffs,

v.

DECISION AND ORDER
06-CV-772S

CITY OF BATAVIA, et al.,

Defendants.

1. Plaintiff commenced the above-captioned case on November 27, 2006, by filing a Complaint in the United States District Court for the Western District of New York.

2. On December 20, 2006, Defendants Victoria Mager and Richard Mager filed a Motion to Dismiss the Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Thereafter, Defendants City of Batavia, Peck, and Zola also filed a Motion to Dismiss, which they amended on December 28, 2006, and February 6, 2007. Defendants Christopher Mager and Arctic Refrigeration Company of Batavia, Inc. also filed a Motion to Dismiss on February 2, 2007.

3. By Motion filed on February 16, 2007, Plaintiffs seek to amend their Complaint.

4. Rule 15 of the Federal Rules of Civil Procedure provides, in pertinent part, that “[a] party may amend the party’s pleading once as a matter of course at any time before the responsive pleading is served. . . . Otherwise a party may amend the party’s pleading only by leave of the court . . . and leave shall be freely given when justice so requires.” FED. R. CIV. P. 15(a).

5. The court has broad discretion in determining whether to grant a party leave to amend its pleadings. See Local 802, Associated Musicians of Greater New York v.

Parker Meridien Hotel, 145 F.3d 85, 89 (2d Cir.1998). As a general matter, in the absence of prejudice or bad faith, a party will be permitted to amend its pleadings. Block v. First Blood Associates, 988 F.2d 344, 350 (2d Cir. 1993).

6. With respect to Plaintiffs' Motion to Amend the Complaint, this Court finds there is no evidence of bad faith, or dilatory motive on Plaintiffs' part, and no indication that undue delay or prejudice would result if they were permitted to amend their Complaint.

IT HEREBY IS ORDERED that Plaintiff's First Motion to Amend the Complaint (Docket No. 21), erroneously filed as "First Motion Amended Complaint," is GRANTED.

FURTHER, that Defendants' previously filed Motions to Dismiss the original Complaint (Docket Nos. 2, 4, 8, 17 & 18) are DENIED as moot.

FURTHER, that the oral argument previously scheduled for April 5, 2007, is CANCELLED as unnecessary.

FURTHER, that Plaintiffs shall file with the Clerk of the Court and serve an Amended Complaint on or before Friday, March 16, 2007.

SO ORDERED.

Dated: February 23, 2007
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge